

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES
Before the Commissioner of Financial and Insurance Services

In the matter of

XXXXX

File No. 85404-001

Petitioner

v

Humana Insurance Company
Respondent

Issued and entered
this 13th day of November 2007
by Ken Ross
Acting Commissioner

ORDER

I

PROCEDURAL BACKGROUND

On September 26, 2007, XXXXX the authorized representative for XXXXX, (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Services under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the information and accepted the request on October 3, 2007.

The Commissioner notified Humana Insurance Company of the external review and requested the information used in making its adverse determination. The company provided information on October 1, 2007.

The issue here can be decided by an analysis of the terms of the Petitioner's health care coverage. The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

II

FACTUAL BACKGROUND

The Petitioner has health care coverage under a small employer group plan with Humana.

The Petitioner has a congenital jaw deformity for which preauthorization for maxillary and mandibular orthognathic surgery was requested. Humana denied the request citing the Petitioner's Benefit Plan exclusion for jaw/joint surgery. After the Petitioner appealed, Humana maintained its denial and issued a final adverse determination dated September 10, 2007.

III ISSUE

Is Humana correct in denying coverage for the Petitioner's maxillary and mandibular orthognathic surgery?

IV ANALYSIS

Petitioner's Argument

The Petitioner's mother cited medical necessity for the Petitioner's jaw surgery in her appeals to Humana. She stated that her daughter's jaw condition adversely affects her daily life and she is concerned that she will suffer permanent damage to her jaw joint if left untreated. Both the Petitioner's dentist and oral surgeon submitted letters indicating the medical necessity of the surgery.

In the request for external review, the Petitioner's authorized representative argues that the Petitioner's jaw surgery is reconstructive for a congenital anomaly and coverage should be provided due to the functional impairment of the condition.

The Petitioner believes that Humana should provide coverage for the proposed jaw surgery due to medical necessity to correct the congenital deformity.

Humana Insurance Company's Argument

Humana says that the Petitioner's policy specifically excludes oral surgery under Limitations and Exclusions which states:

Other limitations and exclusions.

Unless specifically stated otherwise, no benefits will be provided for or on account of the following items:

- Dental services, appliances or supplies for treatment of the teeth, gums, jaws or alveolar processes, including but not limited to, any *oral surgery or periodontic surgery* and preoperative and postoperative care, implants and related procedures, orthodontic procedures, and any dental services related to a *bodily injury or sickness* unless otherwise stated in this *certificate*.
- Expenses incurred by you for the treatment of any jaw joint problem, including temporomandibular joint disorder, craniomaxillary disorder, craniomandibular disorder, head and neck neuromuscular disorder or other conditions of the joint linking the jaw bone and the skull.

These limitations and exclusions apply even if a health care practitioner has performed or prescribed a medically appropriate procedure, treatment or supply. This does not prevent your health care practitioner from providing or performing the procedure, treatment or supply; however, the procedure, treatment or supply will not be a covered expense.

Oral surgery means procedures to correct diseases, injuries and defects of the jaw and mouth structures. These procedures include, but are not limited to, the following:

- Surgical removal of full bony impactions;
- Mandibular or maxillary implant;
- Maxillary or mandibular frenectomy;
- Alveolectomy and alveoplasty;
- Orthognathic surgery;
- Surgery for treatment of temporomandibular joint syndrome/dysfunction; and
- Periodontal surgery, including gingivectomies.

Humana states that oral surgery for mandibular and orthognathic surgery is specifically excluded from the plan even when the treatment is medically necessary, therefore no benefits are available.

Commissioner's Review

The Commissioner has considered the arguments of both parties and reviewed the provisions of the Petitioner's policy. The policy is clear when it states "no benefits will be provided for. . . any *oral surgery* or expenses incurred by you for the treatment of any jaw joint problem, including temporomandibular joint disorder, craniomaxillary disorder, craniomandibular disorder, head and neck neuromuscular disorder or other conditions of the joint linking the jaw bone and the

skull.”

The Commissioner understands the value of this surgery to the Petitioner but in deciding this case, is bound by the terms and conditions of the Petitioner’s health care policy. While the Petitioner’s policy does have a general provision for reconstructive surgery for a congenital anomaly it also specifically excludes mandibular and orthognathic oral surgery. The Commissioner finds Humana processed the preauthorization request correctly and denied coverage according to the terms and conditions of the Petitioner’s policy.

**V
ORDER**

The Commissioner upholds Humana Insurance Company’s adverse determination of September 10, 2007.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.